

Dated: 4/16/2019

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE:)		
)	CHAPTER:	11
ANGELIA NICHOLE SHOCKLEY)	CASE NO.:	19-00138
)	JUDGE:	HARRISON
Debtor.)		

**ORDER GRANTING MOTION FOR DERIVATIVE STANDING TO PURSUE
AVOIDANCE ACTIONS**

This matter came before the Court on March 14, 2019 on the *Motion for Derivative Standing to Pursue Avoidance Actions* (“Derivative Standing Motion”) filed by creditor Jason Brubacher (“Mr. Brubacher”).

The Court, having reviewed the Derivative Standing Motion and considered the consent of the Debtor-in-Possession as represented therein, hereby finds and ORDERS as follows:

1. The Derivative Standing Motion is GRANTED. Specially, the Court finds that the Derivative Standing Motion (i) asserts at least one colorable claim, (ii) indicates the Debtor-in-Possession has consented to the Creditor’s pursuit of the claims, and (iii) a valid purpose, necessity, and likely benefit to the estate exists in pursuing the claim(s).

2. **Notice:** Pursuant to Fed. R. Bankr. P. 2002, notice of the Derivative Standing Motion and the hearing on the Derivative Standing Motion has been given to the Office of the United States Trustee, counsel for the Debtor, the Internal Revenue Service, and the 20 largest unsecured creditors, and such notice is appropriate under the circumstances.

3. **Jurisdiction:** This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in this Court pursuant to 28 U.S.C. § 1408. The Court possesses the requisite authority to grant the relief requested herein pursuant to 11 U.S.C. §§ 105, 1107 and 1109.

4. Mr. Brubacher shall be, and hereby is, authorized to pursue, without limitation, claims and causes of action that the bankruptcy estate may have related to 2088 Buffalo Valley Road, Cookeville, Tennessee 38501 (the “Real Estate”) that was transferred from the Debtor to a third party, Randal Risher, for little or no consideration less than one (1) year prior to the bankruptcy filing. These claims shall include, but are not limited to, recovery of the real estate transfer (and/or the value thereof) pursuant Chapter 5 of the Bankruptcy Code and correlating Tennessee law for which the Debtor-in-Possession, with the rights and powers of a bankruptcy trustee, would be able to avail itself.

5. The net proceeds from recovery of the claims asserted and prosecuted by Mr. Brubacher shall be allocated as follows:

- a. First, to approved fees, costs and expenses incurred by either counsel for Mr. Brubacher, or Mr. Brubacher individually, for pursuit and prosecution of such causes;
- b. Next, to priority claims of the estate for which Mr. Brubacher is jointly obligated (i.e. IRS);
- c. Then, pursuant to further Order of this Court, in the event the above obligations are satisfied and any proceeds remain.

6. Nothing herein shall be deemed to be a waiver by Mr. Brubacher, on prior notice to the Debtor, of his right to request additional or further protection of his interests, to move for additional relief, to seek the appointment of a trustee or examiner or the conversion or dismissal of this Chapter 11 case, or to request any other relief in this case, including a request to expand the

scope provided herein for derivative standing to pursue certain actions under Chapter 5 of the Bankruptcy Code.

7. This Order shall be immediately effective and enforceable upon its entry.

8. Upon entry of this Order, notice of this Order shall be served on (i) the Internal Revenue Service; (ii) the Debtor's twenty largest unsecured creditors, (iii) the Office of the United States Trustee, and (iv) the Debtor's secured creditors.

IT IS SO ORDERED.

THIS ORDER WAS SIGNED AND ENTERED ELECTRONICALLY AS
INDICATED AT THE TOP OF THE FIRST PAGE

APPROVED FOR ENTRY:

/s/ Gray Waldron

TIMOTHY G. NIARHOS

GRAY WALDRON

REBECCA J. YIELDING

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This Order has been electronically
signed. The Judge's signature and
Court's seal appear at the top of the
first page.
United States Bankruptcy Court.